

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SALIA ISSA, FISTON RUKENGEZA, and
SALIA ISSA and FISTON RUKENGEZA as
next friends of their unborn child,
Plaintiffs,

V.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
LT. BRANDY HOOPER, individually,
LT. DESMOND THOMPSON, individually,
and ASSIST. WARDEN ALONZO HAMMOND,
individually,
Defendants.

CIVIL ACTION No. 1:22-cv-1107-LY

DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME ON REPLIES

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants Texas Department of Criminal Justice (“TDCJ”), Lt. Brandy Hooper, Lt. Desmond Thompson, and Assistant Warden Alonzo Hammond (collectively, “Defendants”) respectfully ask the Court for a one-week extension on their current deadline to file replies in support of their pending motions to dismiss. This motion is unopposed. In further support, Defendants show the Court as follows:

I. STANDARD OF REVIEW

“When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion if . . . a request is made before[] the original time or its extension expires.” FED. R. CIV. P. 6(b)(1); *see also* FED. R. CIV. P. 16(b)(4) (applying the same good cause standard for modifications to a schedule). The good cause standard requires “the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.” *S & W Enters., L.L.C. v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 536

(5th Cir. 2003). “Rule 6(b)(1)(A) gives the court wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed or prior to the expiration of the period as extended by a previous order.” Charles Alan Wright & Arthur R. Miller, 4B FED. PRAC. & PROC. CIV. § 1165 (4th ed. April 2017). “[A]n application for extension of time under Rule 6(b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.” *Id.*

II. ARGUMENTS & AUTHORITIES

Defendants have good cause for the requested one-week extension. Plaintiffs’ Second Amended Complaint presents thirty-one (31) claims brought by three plaintiffs against four defendants. *See* Dkt. #18. Even the chart of the claims helpfully provided in the pleadings takes up nearly two pages. *See id.* at 2–3. Because the claims against TDCJ are different than the claims against the individual capacity defendants, TDCJ and the individuals filed separate motions to dismiss, to which Plaintiffs have separately responded. *See* Dkts. #20–21, Dkts. #24–25. The issues involved in these motions are complex, involving assertions of sovereign and qualified immunity, as well as failure to state a claim.

Defendants’ Counsel is also attorney-in-charge for defendants in several other lawsuits with obligations that fall during the pertinent time for preparing Defendants’ reply in this case. These obligations include the following:

DATE	DEADLINE/EVENT	CASE
02/22/2023	<ul style="list-style-type: none"> Deadline to file motion to dismiss. 	<ul style="list-style-type: none"> <i>Blackmon v. TDCJ</i>, No. 9:22-cv-182, U.S. District Court for the Eastern District of Texas, Lufkin Division
02/24/2023	<ul style="list-style-type: none"> Deadline for Parties’ Joint Conference Report. Deadline to submit initial disclosures. 	<ul style="list-style-type: none"> <i>Blackmon v. TDCJ</i>, No. 9:22-cv-182, U.S. District Court for

DATE	DEADLINE/EVENT	CASE
		the Eastern District of Texas, Lufkin Division
02/28/2023	<ul style="list-style-type: none"> • Status Conference in Beaumont, Texas (~8 hour round trip). • Deadline to file reply in support of motion to dismiss. 	<ul style="list-style-type: none"> • <i>Blackmon v. TDCJ</i>, No. 9:22-cv-182, U.S. District Court for the Eastern District of Texas, Lufkin Division
03/02/2023	<ul style="list-style-type: none"> • Deadline to file reply in support of motion for summary judgment. • Deadline to file Parties' Joint Conference Report. 	<ul style="list-style-type: none"> • <i>Barker v. Collier</i>, No. 4:22-CV-02816, U.S. District Court, Southern District of Texas; • <i>Stone v. McCraw</i>, Case No. 6:22-cv-0031, U.S. District Court, Northern District of Texas
03/03/2023	<ul style="list-style-type: none"> • Deadline to file two replies in support of two pending motions to dismiss (the deadline this motion asks the Court to move). 	<ul style="list-style-type: none"> • <i>Issa v. TDCJ</i>, No. 1:22-cv-1107, U.S. District Court for the Western District of Texas.
03/06/2023	<ul style="list-style-type: none"> • Deadline to file reply in support of motion to stay discovery. 	<ul style="list-style-type: none"> • <i>Blackmon v. TDCJ</i>, No. 9:22-cv-182, U.S. District Court for the Eastern District of Texas, Lufkin Division

Considering the complexity of the matters presented in the pending motions to dismiss and responses thereto and the other obligations presently imposed on undersigned counsel, and noting that the motion is not opposed, Defendants believe that good cause exists to grant them an additional one week to file their replies in this case.

III. PRAYER

Defendants therefore respectfully ask the Court to extend their reply deadline, moving it from March 3, 2023 to March 10, 2023.

Date: February 27, 2023

Respectfully Submitted,

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN COWLES
Deputy Attorney General for Civil Litigation

SHANNA MOLINARE
Chief, Law Enforcement Defense Division

/s/ Benjamin L. Dower
BENJAMIN L. DOWER
Special Litigation Counsel
Texas Bar No. 24082931
Attorney-in-Charge
Benjamin.Dower@oag.texas.gov

Office of the Attorney General
Law Enforcement Defense Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 463-2080 / Fax (512) 370-9994

**ATTORNEYS FOR DEFENDANTS TDCJ,
LT. THOMPSON, ASSISTANT WARDEN
HAMMOND, AND LT. HOOPER**

CERTIFICATE OF CONFERENCE

I, BENJAMIN L. DOWER, certify that on February 27, 2023, I corresponded with Plaintiffs' Counsel Ross Brennan regarding the relief sought in this motion. Plaintiffs' Counsel indicated he was unopposed to the relief requested herein.

/s/ Benjamin L. Dower
BENJAMIN L. DOWER
Special Litigation Counsel

CERTIFICATE OF SERVICE

I, BENJAMIN L. DOWER, certify that a true and correct copy of the foregoing document was filed and served via the Court's CM/ECF document filing system on February 27, 2023 to:

Ross A. Brennan
Cronauer Law, LLP
7500 Rialto Blvd
Bldg 1, Ste 250
Austin, TX 78735
512-733-5151
Fax: 815-895-4070
Email: ross@cronauerlaw.com
ATTORNEY FOR PLAINTIFFS

/s/ Benjamin L. Dower
BENJAMIN L. DOWER
Special Litigation Counsel